

REMARKS

With this response, claims 71-86 and 89-97 are pending. Claims 86, 89-90 have been amended without prejudice or disclaimer, claims 87-88 have been canceled, and claims 91-97 have been newly added by way of the present amendment. It is noted that claims 71-85 have been withdrawn as directed to a non-elected invention. Regardless, Applicants reserve the right to prosecute the non-elected invention in a continuing application. Support for the foregoing amendment can be found throughout the specification and the claims as originally filed, for example, in the specification at page 39, lines 5 - 11; page 91, lines 11 - 22; page 101, lines 7 - 21; page 115, line 5- page 124, line 10; Example 3, 10, and 11; and Tables 4-6.

I. Restriction Requirement

In the Office Action dated January 18, 2007, the Examiner required restriction to one of the following inventions:

Group I: Claims 71-85, drawn to recombinant DNA constructs and plants transformed therewith.

Group II: Claims 86-90, drawn to oil.

The Examiner also required an election of species selection from groups 1-26 should Applicants select Group I.

Applicants respectfully traverse the restriction requirement and provisionally elect the subject matter of Group II, claims 86-90, drawn to oil. However, Applicants submit that the Office has not proven that the search and examination of the entire application would impose an undue burden. Applicants submit that a complete examination would be handled most expeditiously by treating all of the pending claims as a single entity. As MPEP §803 directs, “[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.”

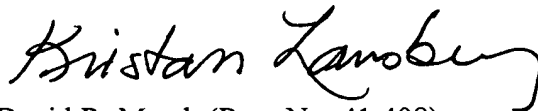
Applicants respectfully submit that at least claims 77-85 from Group I should be examined together with the elected Group II. In substantiating the restriction requirement, the Examiner contends that Inventions I and II are unrelated and that there is serious search burden on the Examiner. Office Action at page 2 and 6. Applicants respectfully disagree and assert that the search of the claims 77-85 together with the elected Group II would pose no undue burden on the Examiner.

In order to facilitate prosecution, however, Applicants have withdrawn claims 71-85 without prejudice or disclaimer to the subject matter disclosed therein by way of the present amendment. It is noted that these claims have been withdrawn as directed to a non-elected invention. Regardless, Applicants reserve the right to prosecute the non-elected invention in a continuing application.

CONCLUSION

In view of the above, each of the presently pending claims is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding objection and rejections of the claims, and to pass this application to issue. The Examiner is encouraged to contact the undersigned at (202) 942-5186 should any additional information be necessary for allowance.

Respectfully submitted,



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Date: February 20, 2007

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